THE HONOURABLE SRI JUSTICE C.V. RAMULU

WRIT PETITION NO.1530 OF 2002

DATED: 04-01-2007

Between:

P. Narasimha Reddy and others

.. Petitioners

and

Government of Andhra Pradesh represented by its Secretary, Department of Irrigation, Saifabad, Hyderabad and others.

.. Respondents

THE HONOURABLE SRI JUSTICE C.V. RAMULU

WRIT PETITION NO.1530 OF 2002

ORDER:

This writ petition is filed seeking a mandamus declaring the action of the respondents in not initiating Land Acquisition Proceedings and in not paying compensation in respect of the lands of the petitioners admeasuring 110 acres in Sy.Nos.602, 631, 632, 640, 641, 646, 659, 662, 699, 700, 701, 703, 705, 707, 709, 630, 633, 710, 698, 610, 600, 706, 669 and 603 situated at Vangara Revenue Village, Bhimadevarapally Mandal, Karimnagar District, as arbitrary, illegal and violative of Articles 14, 19 (1) (g) and 21 of the Constitution of India.

It appears, the petitioners are all agriculturists and having various extents of lands in the above mentioned survey numbers situated at Vangara Revenue Village, Bhimadevarapally Mandal, Karimnagar District. While so, the possession of the said lands to an extent of 110 acres was taken over in the month of July 1998 for the purpose of formation of Chennaboina Kunta tank. Though the land is more than 110 acres, the respondent No.3 has issued Notification under Section 4(1) and Declaration under Section 6 of the Land Acquisition Act, 1894 (for short 'the Act') in respect of Acres 48-21 guntas only in Sy.Nos.602, 631, 632, 640, 641, 646, 659, 662, 699, 700, 701, 703, 705, 707 and 708. Further, according to the petitioners, the 3rd respondent has not issued any 4 (1) Notification or 6 Declaration till date with regard to the remaining lands of the petitioners, though

possession of the said lands was taken over long back. Therefore, the action of the respondents in taking possession of their lands in excess of Acres 48-21 guntas and not initiating Land Acquisition proceedings in respect of the remaining lands is arbitrary and illegal.

A detailed counter affidavit has been filed on behalf of the respondents denying the allegations made by the petitioners. It is stated that the District Collector, Karimnagar, vide his letter dated 01.08.1998, approved the requisition submitted by the Executive Engineer, I & CAD, Karimnagar for acquisition of land for construction of Chennaboina Cheruvu at Vangara Village of Bhimadevarapally Mandal. The Assistant Director, Survey and Land Records, has demarcated the lands and submitted the S.D. records through his letter dated 17.11.1999. Out of the total extent of Acres 72-31 guntas requisitioned by the Executive Engineer, only an extent of Acres 48-21 guntas could be acquired, as the land in Sy.Nos.630, 665, 668, 669, 698, 704, 706, 709, 710 to an extent of Acres 24-10 guntas was declared as surplus land under the provisions of the A.P. Land Ceiling Act and further surrender proceedings have to be initiated following the procedure contemplated under the said Act. Further, in respect of the lands in Sy.Nos.602, 631, 632, 640, 641, 646, 659, 662, 699, 700, 701, 703, 705, 707, 708, to an extent of Acres 48-21 guntas, proposals have been submitted to the Collector, Karimnagar, through letter dated 22-01-2001 invoking the urgency clause under Section 17 (4) of the Act duly dispensing with the enquiry under Section 5-A of the Act. After getting approval from the District Collector, Notification under Section 4 (1) and Declaration under Section 6 of the Act were published in the District Gazette on 01-02-2001 and 28-02-2001 respectively and the same were published in the news papers namely Indian Express on 05-02-2001, Janatha Telugu Daily on 04-04-2001, Deccan Chronicle on 09-03-2001 and Andhra Prabha Telugu Daily on 05-03-2001 and

the substance was published in the locality on 07-02-2001 and 09-03-2001 respectively. The possession of the land under acquisition to an extent of Acres 48-21 guntas was also taken on 18-09-1998 and action for payment of compensation is being taken as per the Act. Further, the land in Sy.Nos.600, 601, 603 and 633 were not requisitioned by the Requisitioning Department and also not demarcated by the Assistant Director, Survey and Land Records, Karimnagar and hence these survey numbers have not been included in the Draft Notification as well as in the Draft Declaration.

From the above, it is seen that though originally Acres 72-31 guntas were requisitioned and were demarcated by the Assistant Director of Survey and Land Records, only Acres 48-21 guntas were taken possession of by the authorities and, thereafter, an award was passed and even according to the petitioners, the matter was referred under Section 18 of the Act to the Civil Court for deciding proper compensation and in the counter, there is no mention that the possession of Acres 24-10 guntas in Sy.Nos.630, 665, 668, 669, 698, 704, 706, 709, 710 was never taken and, in fact, the surrender proceedings are yet to be finalized. Insofar as the Sy.Nos.600, 601, 603 and 633 are concerned, they were neither requisitioned nor demarcated by the Assistant Director of Survey and Land Records. Thus, it is seen that only an extent of Acres 48-21 guntas was taken possession of by the department in the month of July 1998 for the purpose of formation of Chennaboina Kunta Tank of Vangara Village, Bhimadevarapally Mandal, Karimnagar District. The rest of the land was never taken possession of by the respondents. In fact, the respondents themselves have stated that in respect of Acres 24-10 guntas which was part of the requisition, surrender proceedings have to be initiated following the procedure as contemplated under the A.P. Land Ceiling Act and insofar as the lands in Sy.Nos.600, 601, 603 and

633, neither any requisition was made nor possession was taken.

From the above, it is clear that the Land Acquisition proceedings were initiated only in respect of Acres 48-21 guntas in the survey numbers mentioned above and possession of the said lands was taken and in respect of the rest of the lands, possession was not taken. Thus, it must be deemed that the rest of the lands are in possession of the respective pattadars till the proceedings under the A.P. Land Ceiling Act are taken up and concluded.

The learned counsel for the petitioners made another submission that though the Notification under Section 4(1) of the Act states that it is in respect of Acres 48-21 guntas only, the extents more than that were acquired and demarcated. This can very well be agitated by the petitioners in the reference that was made to the Civil Court under Section 18 of the Act.

With the above observations, the writ petition is disposed of. There shall be no order as to costs.

C.V. RAMULU, J

4th January 2007.

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